Companies under the purview of BIFR

*568. SHRI MUKESH R. PATEL:
SHRI SANJAY NIRUPAM:

Will the Minister of FINANCE be pleased to state:

(a) the number of companies that have been put under the purview of BIFR;

(b) whether the recommendations of BIFR are not being followed properly; and

(c) if not, the percentage of follow-up of the recommendations of BIFR to revive the sick units in private and public sectors?

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): (a) to (c) A statement is laid on the Table of the House.

Statement

Companies under the purview of BIFR

(a) The Board for Industrial and Financial Reconstruction (BIFR) has reported that 1899 references were registered with it upto 31.03.1997 under the provisions of Sick Industrial Companies (Special Provisions) Act, 1985 (SICA).

(b) and (c) As per the provisions of SICA, sick industrial companies are required to be referred to the BIFR for determination of the remedial and other measures which need to be taken in respect of such companies. The schemes for revival of sick industrial companies are sanctioned by the BIFR after obtaining the consent of all concerned parties and the schemes thus sanctioned are binding under sub-section (3) of Section 19 of SICA. Section 33 of SICA vests sufficient powers with BIFR to deal with cases of violation of any sanctioned scheme.

BIFR has reported that out of 554 rehabilitation schemes sanctioned by it upto 31.03.1997 in respect of sick industrial companies in the private sector, 167 schemes have so far been implemented and these companies have been declared no longer sick. As regards sick industrial companies in the public sector, out of 40 rehabilitation schemes sanctioned upto 31.03.1997, four schemes have so far been implemented. The remaining schemes are under various stages of implementation.

[] Transliteration in Arabic Script.

श्री संजय निरूपमः सर, मेरा जो क्वैश्चन था, मंत्री महोदय के लिए जो मैंने क्वैश्चन का नोटिस दिया था, वह ए,बी,सी,डी और ई, पांच पार्ट में था, लेकिन यहां जो इंडैक्स किया गया है, उसमें सिर्फ ए,बी और सी तीन पार्ट हैं। मैंने जो नोटिस दिया है, वह मैं आपको बताता हूं, उसमें जो डी और ई पार्ट था, जो क्वैश्चन के दो पार्ट थे लास्ट में, उसमें क्वैश्चन यह था कि—'the kind of difficulties the BIFR is facing in performing its duties'.

SHRI P. CHIDAMBARAM: I have answered the question which was given to me by the Secretariat. If they have deleted it, I am not responsible. *(Interruptions)* Mr. Chairman, Sir, please guide him. *(Interruptions)*

श्री संजय निरूपमः सर, बेसिक प्रोब्लम यह है इसमें, कि जो बी०आई०एफ०आर० के अंदर कंपनी हैं, बी०आई०एफ०आर० रिकमण्डेशन दे रही है कंपनीज को रिवाइव करने के लिए, सिक कंपनीज को रिवाइव करने के लिए तो अब क्या प्रोब्लम आ रही है उसकी रिकमण्डेशन को इम्पलीमेंट करने में? मेरा बेसिक क्वैश्चन था। इसी से जुड़ी हुई बात यह थी कि क्या डिफिकल्टी आ रही है? और, क्या बी०आई०एफ०आर० की जगह पर और कोई इसी तरह का संस्थान बनाने की तैयारी चल रही है या कोई ऐसी योजना है? मंत्री महोदय ने जो जवाब दिया है, उसमें उनका यह कहना है कि 31 मार्च, 1997 तक 554 रिहैब्लिटेशन स्कीम एडोप्ट की गई थी और उसमें 167 स्कीम अब तक कम्पलीट हो पाई है या लागू हो पाई हैं। तो बाकी स्कीम क्यों नहीं लागू हो पाई है? इसका दूसरा पार्ट यह है—

> "As regards sick industrial companies in the public sector, out of 40 rehabilitation schemes sanctioned up to 31.03.1997, four schemes have so far been implemented".

तो मेरा सवाल यह है कि बाकी जो स्कीम है, वह

क्यों नहीं इम्पलीमेंट हो पा रही है? मुझे लगता है कि बाकी जो दो पार्ट हैं मेरे क्वैश्चन के, इसीलिए उनको डिलीट कर दिया गया है। आप फिर से उन क्वैश्चन का जवाब दे दीजिए क्योंकि उसके साथ ही कहीं न कहीं मेरा यह क्वैश्चन जुड़ रहा है।

SHRI P. CHIDAMBARAM: Sir, the hon. Member is obviously a new Member. He should not make a charge which is not correct. I do not delete parts. I do not add parts. Whatever question the Rajya Sabha Secretariat sends to me, I give the answer.

MR. CHAIRMAN: I understand. *(Interruptions)*

SHRI SOM PAL: Sir, this leads again to the same problem. *(Interruptions)*

MR. CHAIRMAN: It has been deleted because it is not connected with the main part of the question.

SHRI P. CHIDAMBARAM: Therefore, kindly advise him. *(Interruptions)* kindly advise him. I do not delete answers. *(Interruptions)*

SHRI SOM PAL: Mr. Chairman, Sir, they cannot delete the question without the permission of the hon. Member who has raised the question. It is a matter of privilege. *(Interruptions)*

It cannot be done without the permission of the Member who has given notice of the question. *(Interruptions)*

MR. CHAIRMAN: I will look into that. I will investigate.

SHRI P. CHIDAMBARAM: Therefore, Sir, I will not answer that part.

MR. CHAIRMAN: Anyway, Mr. Nirupam, you put your supplementary.

SHRI P. CHIDAMBARAM: I only answer the question which is sent to me.

श्री संजय निरूपम: सर, मेरा क्वैश्चन यह है कि जो बाकी रिहैब्लिटेशन स्कीम लागू नहीं हो पा रही हैं, जो बहुत बड़ी संख्या में हैं रिहैब्लिटेशन स्कीम, उसके पीछे वजह क्या है? क्या डिफिकल्टी आ रही है, क्या प्रोब्लम आ रही है प्राइवेट सेक्टर में भी और पब्लिक सेक्टर में भी? जो सेकेण्ड पार्ट का आन्सर है, उसमें उन्होंने क्लीयर लिखा है कि 554 रिहैब्लिटेशन स्कीम थीं, जिसमें 167 स्कीम अभी तक इम्पलीमेंट हो पाई हैं प्राइवेट सेक्टर में। पब्लिक सेक्टर में आप कह रहे हैं कि 40 रिहैब्लिटेशन स्कीम थीं, जिसमें 4 स्कीम अब तक इम्पलीमेंट हो पाई हैं। तो बाकी स्कीम क्यों नहीं इम्पलीमेंट हो पा रही है? यह मैं पूछ रहा हूं।

SHRI P. CHIDAMBARAM: Sir, there is no general answer to why a scheme has not been implemented successfully in the case of a particular sick undertaking where the BIFR has approved a scheme. The reasons are company-specific and scheme-specific. If the hon. Member wishes to know about any particular company or scheme where the revival plan has not been implemented, I suggest he put a specific question, and the administrative Ministry concerned would be able to answer it. Nevertheless, let me offer a general answer from our experience why these schemes are not implemented.

Firstly, Sir, as the Act stands today, sacrifices by financial institutions can be imposed only with the consent of the financial institutions. If the financial institutions do not consent to make sacrifices, then the scheme is a non-starter from the first day. Secondly, even if a financial institution is willing to make a sacrifice and a scheme is made, there are a number of other players who have to make sacrifices. For example, a promoter has to bring equity, or the new promoter would have to bring equity, or there may be a requirement of a management change. Or, the workers may be required to make sacrifices. It is quite possible that the other player did not fulfil his part of the obligation and, therefore, the scheme fails. Thirdly, even after a scheme is approved and money is pumped in as a one-time exercise, because of poor management or because of conditions external to the company, the company may simply fail to successfully make and market the product and the company may become sick again after two, three years, which means the

scheme, which is normally for five years, may fail. After it has appeared to be successful in the first two years, it may fail in the third year. And, finally, one of the more important reasons is, banks accept financial sacrifices, may pump in the money or they write off the debt or write off the insterest. When the company goes back to the institutions, and says, "All right, now I need working capital, now I need extra infusion of money", banks are usually reluctant to lend. There is already, what we find, a shyness on the part of the bankers to lend. Because we do not look upon banking as a commercial transaction, therefore, bankers are shy to lend. In the case of a sick company they are even more shy to lend. Whatever sacrifices they have been persuaded to make by the BIFR, they had made those sacrifices under the guidelines laid down by the RBI. But when it comes to fresh infusion of funds, they are shy to lend once again.

There are complex problems. There is no one answer to all the companies. Each company has its difficulties. And the same applies to the public sector. We have difficulties in the public sector revival. Revival plans come but we find it difficult to pump in the money, and even if we have money we find it difficult to change the management. The management is the same. More money is pumped in and the management is not able to deliver the goods. My submission is that as it is structured, the SICA is, according to me, an ineffective instrument. That is why I suggested in my Budget speech that we are bringing a new law for sick industries. The Cabinet has approved it, the law has been drafted, and I think I am going to introduce it in the Lok Sabha tomorrow. Let it go to the Standing Committee where they will debate it and let us have a new law. As it is, I think, the present law is quite ineffective.

SHRI R.K. KUMAR: The problem with the BIFR is, it is only a recommendatory authority and not a mandatory authority. Unless all the parties concerned—the financial institutions, banks and the promoter or new promoter—agree to certain things, nothing happens. The delay is mainly bacause of that. Earlier also I have suggested that after all, since you have given the powers of a High Court to BIFR, whatever they say should be mandatory. "मियां-बीवी राज़ी तो क्या करेगा काज़ी" After all, there is no work for the kazi if the husband and wife come to a settlement. Like that, the BIFR puts the seal of approval, if everybody agrees. And it takes two years for everybody to agree. So my suggestion and request to the hon. Minister is whether he will consider giving mandatory powers to the BIFR.

SHRI P. CHIDAMBARAM: Sir, it is difficult to offer an opinion off the cuff. As I said, the structure of the Act is such that it is not effective. We must have a more effective law. I think I am introducing a Bill tomorrow in the Lok Sabha. Let it go to the Standing Committee. Let the hon. Members make their suggestions.

I think there are problems also in giving mandatory powers to the BIFR. You can give mandatory power on quantitative matters. But how do you deal with qualitative matters like the quality of management? How do you deal with qualitative matters like productivity? How do you deal with qualitative matters like markets? I don't think that mere giving mandatory powers will solve the problems. I think we must come face to face with the problems that in a competitive economy some industries will become sick and some other industries will become obsolete. We must find a way in which we can cut losses, save employment and save the company. Let the Bill go to the Standing Committee. We will debate it. There are two months to debate it in the Standing Committee.

SHRI DIPANKAR MUKHERJEE: I agree with Mr. Kumar. The BIFR is a

recommendatory authority so far as sanctioning schemes is concerned, but the BIFR has a mandatory authority so far as winding up is concerned. This is a contradiction. So far as the recommendatory part is concerned, well, nobody worries that much. Just now the Finance Minister has said that it is difficult to analyse the reasons why a sanctioned scheme is not implemented. I am afraid that there is confusion about rehabilitation schemes in the explanation that he has given. A draft rehabilitation scheme is first agreed to by all, and then it is circulated. The option, whether to opt for it, whether to agree to it, lies with all the agencies, including banks, financial institutions, promoters and trade unions only when it is a draft rehabilitation scheme.

Once the scheme is sanctioned, it becomes mandatory on all these parties to implement it. He himself mentioned about section 33 of the Act which provides that whosoever, having agreed to the scheme, violates it, has to be penalised.

I want to know: out of the 137 schemes or whatever number has been given by him, is it not known to the Government as to who are the defaulters so far as the sanctioned schemes are concerned? There is no question of anyone getting out of that. The option is only at the stage of the draft. The Finance Ministry is very much aware of the cases and the parties whosoever they are, from the promoters up to the trade unions, who have violated that. The SICA provides for finanlising that. Has any action been taken in this regard; Even if you amend that, the Act has to be followed. It should not simply remain on paper. No Act can be foolproof.

Will the Minister give the number of cases and the number of people who have violated the sanction and have been penalised as per section 33 of the Act?

SHRI P. CHIDAMBARAM: Sir, I have with me a list of 31 cases in which show-cause notices have been issued under section 33 of the Act. These have been issued largely to the promoters, in some cases to old promoters, in some other cases to the erstwhile IRBI, in two cases to banks, in one case to the IFCI and to the West Bengal Government, and in one case to the promoter, the co-promoter and the Government of Kerala. So, show-cause notices have been issued in 31 cases. I will not be able to say in how many cases penalties have been imposed, I will find out that information.

SHRI DIPANKAR MUKHERJEE: If it is the Government of West Bengal or the Government of Kerala, he can identify it. Can he not identify the Government of India in any case? Should I identify that on his behalf?

SHRI P. CHIDAMBARAM: If there was a case against the Government of India, I would have gladly identified it.

SHRI DIPANKAR MUKHERJEE: I am going to identify three cases.

SHRI SATISH AGARWAL: You could identify only West Bengal and Kerala and not any other State.

SHRI DIPANKAR MUKHERJEE: Sir, if you permit me, I will identify the cases against the Government of India right now.

SHRI P. CHIDAMBARAM: Sir, I am willing to read all the 31 show-cause notices. Unfortunately, I do not find the name of the Government of India in any of them. Nor do I find the name of the Government of any other State among them. I cannot invent one. I am willing to read all the 31 cases.

SHRI DIPANKAR MUKHERJEE: That means your information is not correct.

SHRI P. CHIDAMBARAM: It may not be complete.

SHRI DIPANKAR MUKHERJEE: I raised in this House a question regarding the cases where the Government of India failed to give it. I have identified so many cases. The Government is not aware of it. The Government is an indivisible entity.

Sir, it has been admitted that the Government has been found to be a defaulter in certain cases.

SHRI P. CHIDAMBARAM: I have said notices have been issued to I.R.B.I., notices have been issued to I.F.C.I., notices have been issued to two banks. I have said that. These are all quasi-public sector agencies. I am reading from the list. I am not saying it is a complete list. I started by saying that I have a list of 31 cases. It may not be a complete list, but it is not correct to say that it is an incorrect list. It may be a partial list, but, I think it is a correct list.

PROF. RAM KAPSE: Sir, I would like to enquire about the workers' cooperative units. I have come across some cases from Mumbai, where the workers' cooperatives were formed and they could start a company on their own. They sacrifices so that ultimately the company could start. I would like to know from the hon. Minister whether instructions can be given to the B.I.F.R. to see to it that workers' cooperatives are promoted, if they make some sacrifice and a new management is formed. Can the Minister take this into account?

SHRI P. CHIDAMBARAM: Sir, these guidelines are already there. I think the B.I.F.R. is aware that if workers come forward to form a cooperative and take over the management for running a sick industry, B.I.F.R. would surely and certainly consider that offer on a priority basis.

PROF. RAM KAPSE: Sir, there are cases after cases, where this is not done. I will give you the information.

SHRI P. CHIDAMBARAM: Sir, I know at least one case, where it was handed over to workers and it has been turned around successfully. But, if there is a case where workers have come forward to take over a sick industry and if the B.I.F.R. has not responded favourably, the hon. Memebr may bring it to my notice. Surely, I will ask the operating agency to present it to the B.I.F.R. so that it can consider the matter.

SHRI S. MUTHU MANI: Sir, I would like to draw the attention of the Finance Minister to a speech delivered by the Industries Minister in the same House on 10.5.1997. He said in this House that B.I.F.R. is doing its duty only to bring about a collapse of the public sector undertakings. Sir, it is clearly stated in a Tamil daily.

This was stated in the same Sabha on 10.5.1997. Sir, through you, I would like to have the comment and reaction of the hon. Finance Minister on the speech of the hon. Industries Minister.

SHRI P. CHIDAMBARAM: Sir, it is quite unfair to ask me to comment on a colleagues statement, as reported in a newspaper. The right course for the hon. Member is to take it up with the Minister concerned and ask him whether he made the statement and get it clarified.

*569. *[The Questioner (Shri Suresh Pachouri) was absent. For answer vide col. 42 infra.]*

*570. *[The Questioner (Shrimati Renuka Chowdhury) was absent. For answer vide col. 43 infra.]*

Production cost of petroleum products

*571. SHRI RAJNATH SINGH SURYA:
SHRI SANJAY NIRUPAM:

Will the PRIME MINISTER be pleased to state:

(a) whether Government have any data regarding production cost of petroleum products, excluding gas;

(b) if so, the details thereof, per barrel;

(c) what is the production cost of petroleum, both off-shore and on-shore; and

(d) what is the production cost of petroleum products in other major countries, other than Gulf countries?